

INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION



WASHINGTON 25, D. C.

Industry Circular No. 61-38

September 1, 1961

NEW REGULATIONS RELATING TO MANUFACTURE OF TOBACCO PRODUCTS

Manufacturers of tobacco products:

Purpose. This industry circular is to call your attention to the new regulations in 26 CFR Part 270, concerning the manufacture of tobacco, cigars, and cigarettes, which become effective October 1, 1961, to highlight the major changes in procedures and requirements, and to furnish information to aid you in the transition from the superseded regulations to the new regulations. A reprint of the regulations, as published in the Federal Register on August 31, 1961, is attached.

Regulations to be Superseded. These new regulations will supersede the provisions of existing regulations in 26 CFR Part 270, 26 CFR Part 275, and Subpart E of 26 CFR Part 296, insofar as they relate to the domestic manufacture of tobacco products. Provisions relating to importation of tobacco products will be contained in the regulations in 26 CFR Part 275 which part also becomes effective on October 1, 1961.

Background. Industry Circular No. 61-27, dated June 20, 1961, advised you of the publication of the proposed regulations in the Federal Register on June 7, 1961 (26 F. R. 5046). These new regulations are primarily intended to bring together in one part all internal revenue provisions relating to the domestic manufacture of tobacco products and to institute the tobacco products factory concept as contemplated by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275).

Qualification as a Manufacturer of Tobacco Products. On and after the effective date of the new regulations in Part 270 any application for a new permit should be as a "Manufacturer of Tobacco Products," and the new permit will be issued without limitation as to the kind of tobacco product that may be manufactured or received in bond.

If you hold a permit as a manufacturer of cigars and cigarettes or as a manufacturer of tobacco on October 1, 1961, you may continue the operations authorized by such permit. However, if you

wish to qualify as a manufacturer of tobacco products without limitation as to the kind of product you may produce or receive, you must make application on Form 2093 to your assistant regional commissioner (alcohol and tobacco tax) for a permit as a manufacturer of tobacco products. For example, if you hold both a "C" and a "T" permit in the same city, town, or village and wish to combine these operations under one permit, or if you hold a "T" permit and desire to receive cigarettes in bond, you must make application and qualify as a manufacturer of tobacco products.

Where application for permit is made on a Form 2093 printed prior to April 1961 you should modify item 6 to show "Manufacturer of Tobacco Products" as the business in which you will be engaged.

If you do not make application for a permit as a manufacturer of tobacco products, the assistant regional commissioner will issue you a substitute permit as a manufacturer of tobacco products to replace your permit as a manufacturer of cigars and cigarettes or as a manufacturer of tobacco. This substitute permit will bear a notation limiting operations thereunder either to cigars and cigarettes or to manufactured tobacco, consistent with your present permit.

Permit Numbers. New series of numbers will be assigned to permits issued as "Manufacturer of Tobacco Products" whether or not the permit is limited to the manufacture of specific kinds of products. A separate numerical series, beginning with "1", will be used for each State, the number to be prefaced by the symbol "TP" and followed by the name (or abbreviation) of the State. You may, if you desire, request retention of the number in your present permit, and insofar as possible it will be reassigned to you. Therefore, if you wish to retain your present number you should notify your assistant regional commissioner by letter not later than September 25, 1961. If you have not notified the assistant regional commissioner by this date that you wish to retain your present number, he will issue your new or substitute permit with a number in the new series.

Bonds. Your present bond (Form 2099 for a manufacturer of tobacco or Form 2100 for a manufacturer of cigars and cigarettes) will continue in effect unless you requalify as a manufacturer of tobacco products or are otherwise required by regulations to file a new bond. A new bond, as well as a bond to strengthen or supersede an outstanding bond on Form 2099 or 2100, should be filed on Form 3070, "Bond - Manufacturer of Tobacco Products."

Under section 270.133 of the new regulations it is your responsibility to determine the sufficiency of the bond (based on the total quantity of all tobacco products manufactured, received in bond from other factories and export warehouses, or released in bond from

customs custody, during any calendar month), and when the bond is no longer sufficient to immediately file a strengthening or superseding bond.

The maximum amount of the individual bond of a manufacturer of tobacco products has been reduced to \$250,000 for a manufacturer producing or receiving cigarettes in bond, \$150,000 for a manufacturer producing or receiving cigars in bond, and \$25,000 for a manufacturer producing or receiving manufactured tobacco in bond. Where more than one kind of product is produced or received in a factory the bond for that factory need not exceed the largest maximum amount prescribed for the products produced or received therein. For example, the amount of bond for a manufacturer producing or receiving cigarettes and tobacco need not exceed \$250,000, the maximum prescribed for cigarettes.

You are no longer required to have available at the factory the copy of the approved bond returned to you by the assistant regional commissioner.

Blanket Bonds. If you operate more than one factory in the same region you may file a blanket bond for any or all of the factories in the same region based on the following:

<u>Total amount of individual bonds</u>	<u>Amount of blanket bond</u>
Less than \$250,000	100 percent of total amount
\$250,000 but not in excess of \$500,000	\$250,000 plus 50 percent of all over \$250,000
\$500,000 or more	\$375,000 plus 25 percent of all over \$500,000

Other Businesses in Factory. Provisions have been included in the new regulations whereby you may, upon approval of the Director, Alcohol and Tobacco Tax Division, conduct businesses within the factory other than as a manufacturer of tobacco products.

Semimonthly Tax Returns. The new semimonthly tax return, Form 3071, "Tax Return - Manufacturer of Tobacco Products," should be used after the effective date of the new regulations. The information required to be shown on this form is substantially the same as was required on the superseded tax return form except that the listing of daily removals subject to tax is no longer required.

Your tax return for the period of changeover to the new regulations (Sept. 24, 1961 through October 8, 1961) should be filed on the new tax return, Form 3071. If you requalify as a manufacturer of tobacco products you must file a semimonthly tax return for that portion of the return period through the date of discontinuance of business under your old permit and another tax return for that portion of the return period beginning with the date of commencing business under the new permit. In both cases the tax returns are required to be filed not later than the third business day following the close of the return period.

Records. As in the superseded regulations, the new regulations provide that a manufacturer who does not maintain commercial records which adequately reflect his operations must keep records on internal revenue forms. New records Form 3063, "Record of Tobacco Materials (Manufacturer of Tobacco Products)," Form 3064, "Record of Manufactured Tobacco," Form 3065, "Record of Large Cigars," and Form 3066, "Record of Small Cigars and Large and Small Cigarettes," have been provided for use on and after the effective date of the new regulations.

Under the new regulations, if you desire to keep your factory records on a 24-hour cycle of operation other than a calendar day you should make application to your assistant regional commissioner (alcohol and tobacco tax) for such authorization. A 24-hour cycle of operation once so established may be changed only by like application approved by the assistant regional commissioner.

The individual removal record system which you provide in support of removals subject to tax (as required by section 270.184 of the regulations) should not include tax determined products received and removed with no change in tax status, unless such individual record clearly identifies such previously tax determined products. If the record system used to support removals subject to tax includes previously tax determined products, then in the absence of some positive differentiation between these two kinds of removals tax must be determined and paid on all products recorded in such record system.

Inventories. If you requalify as a manufacturer of tobacco products under the new regulations you must make and submit to the assistant regional commissioner (alcohol and tobacco tax) concluding and commencing inventories. The commencing inventory will be on Form 3067, "Inventory - Manufacturer of Tobacco Products." Where only one factory is concerned the commencing inventory will also serve as the concluding inventory. However, where two or more factories are to be combined under one permit, separate concluding inventories for each factory must be made and submitted, on Forms 3067 if made on or after October 1, 1961, or on Forms 2130 or 2131 if made on September 30, 1961.

Reports. Forms 2134 and 2136, monthly reports of manufacturers of tobacco and manufacturers of cigars and cigarettes, have been superseded by a combined revised report, Form 3068, "Monthly Report - Manufacturer of Tobacco Products." The new form, for reporting operations and transactions occurring on and after October 1, 1961, provides for reporting separately all tobacco products lost and destroyed. Therefore, all tobacco products destroyed during the month covered by the report, whether under internal revenue supervision or under authorization of the assistant regional commissioner, should be reported on the "DESTRUCTION" line, while tobacco products lost, either by theft or by casualty, should be reported on the "LOSS" line.

Reports for each month prior to the effective date of the new regulations will be on Form 2134 or 2136, as appropriate, and reports for each month thereafter will be on Form 3068. Where a manufacturer requalifies the concluding and commencing reports should be marked "Concluding Report" and "Commencing Report," respectively.

An error was made in the printing of Form 3068 (April 1961) and the footnote on the reverse of the form should read "Enter total in item 24, column (a)," instead of "Enter total in item 23, column (a)."

Packages. Manufacturers issued new or substitute permits may use existing supplies of packaging materials bearing a "C" or "T" permit number until the supplies are exhausted. Thereafter, the packages must bear the "TP" permit number.

In recognition of the problems which arise in connection with the transfer of packaging materials, or packages of tobacco products in bond, from one factory to another, section 270.212 now provides that the Director, Alcohol and Tobacco Tax Division, may authorize the marking of packages with only the name of the manufacturer if the factory of production is identified on the package by a statement, symbol, or other means (other than the permit number), approved by the Director.

Notice for Large Cigars. If you so desire, the word "Class" may be eliminated from the notice for large cigars since it is no longer required by regulation.

Receipt of Tobacco Products. Under the new regulations any tobacco products which you are authorized to produce under your permit or any tobacco products on which the tax has been determined (including products on which the tax has been paid) may be received into your factory without internal revenue supervision. However, tobacco products on which the tax has been determined must be segregated and so identified.

Destruction of Tobacco Products. If you desire to destroy tobacco products which have been entered in your factory records as manufactured or received, without salvaging the materials, you should notify your assistant regional commissioner (alcohol and tobacco tax) of the kind and quantity of tobacco products to be destroyed, the intended method of destruction, and the date on which you desire to destroy such products. The assistant regional commissioner will, as provided in section 270.253, either authorize you to accomplish the destruction without supervision or assign an internal revenue officer to supervise the destruction.

Claims. The procedure for the filing of claims for allowance or refund of tax under the new regulations is the same as under the superseded regulations except that the schedule will be prepared on Form 3069, "Schedule of Tobacco Products or Cigarette Papers or Tubes Withdrawn from the Market," rather than on Form 177, and when tobacco products are withdrawn from the market the assistant regional commissioner may, upon receipt of the schedule, Form 3069, assign an internal revenue officer to supervise disposition of the tobacco products or he may authorize you to dispose of the products without supervision.

The new regulations also prescribe the use of Form 2635, "Claim - Alcohol and Tobacco Taxes," to be used by you when filing a claim for remission or allowance of tax. You will continue to use Form 843 when filing claims for abatement or refund of tax.

Sign. The new regulations discontinue the former requirement that a sign be posted at the factory.

Retention of Records. All records required to be maintained, including copies of authorizations, claims, inventories, notices, reports, returns, schedules, etc., must be kept for three years following the close of the calendar year in which made or filed or in which the operations authorized are concluded.

Supply of Revised Forms. A supply of the Semimonthly Tax Return, Form 3071, and Monthly Report, Form 3068, will be furnished all manufacturers. A supply of the appropriate Record Forms, Form 3063, 3064, 3065, and 3066, will be furnished those manufacturers who are presently using internal revenue records rather than commercial records. Additional supplies of these forms and any other forms required by the new regulations may be obtained from your assistant regional commissioner (alcohol and tobacco tax).

Forms to be Superseded. The Schedule of Taxpaid Tobacco Products Withdrawn from the Market, Form 177, Inventories, Forms

2130 and 2131, Records, Forms 2141, 2142, and 2143, and Tax Returns, Forms 2618, 2619, and 2620, become obsolete on October 1, 1961. Monthly Reports, Forms 2134 and 2136, become obsolete after reporting operations and transactions occurring for the month of September 1961. Please destroy after these dates any supply of the unused forms you may have on hand.

Inquiries. Inquiries regarding this circular should refer to its number and be addressed to the office of your assistant regional commissioner (alcohol and tobacco tax).



Dwight E. Avis
Director, Alcohol and Tobacco Tax Division

Attachment



UNITED STATES TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE

Reprinted from FEDERAL REGISTER, August 31, 1961

Title 26—INTERNAL REVENUE

**Chapter I—Internal Revenue Service,
Department of the Treasury**

**SUBCHAPTER E—ALCOHOL, TOBACCO, AND
OTHER EXCISE TAXES**

**PART 270—MANUFACTURE OF
TOBACCO PRODUCTS**

On June 7, 1961, a notice of proposed rule making with respect to regulations designated as Part 270 of Title 26 of the Code of Federal Regulations was published in the FEDERAL REGISTER (26 F.R. 5046). The proposed regulations prescribe provisions relating to the production and taxpayment of cigars, ciga-

(over)

rettes, and manufactured tobacco in a single part of the regulations and institute the tobacco products factory concept as contemplated by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275).

In accordance with the notice, interested persons were afforded an opportunity to submit for consideration any comments or suggestions pertaining thereto. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed and after making editorial, clarifying, and liberalizing changes, the regulations as so published are hereby adopted subject to the changes set forth below.

1. Section 270.1 is changed by inserting after the word "payment" the phrase "by manufacturers of tobacco products".

2. Section 270.11 is changed:

(A) By rewording the definition of "Manufacturer of tobacco" to read "Any manufacturer of tobacco products who prepares, processes, manipulates, or packages, for removal, or merely removes, tobacco (other than cigars and cigarettes) for consumption by smoking or for use in the mouth or nose."

(B) By rewording the first sentence of the definition of "Tobacco materials" to read "Tobacco (other than manufactured tobacco, cigars, and cigarettes), including tobacco in process, Perique, Black Fat, leaf tobacco, and tobacco scraps, cuttings, clippings, siftings, stems, and waste."

(C) By inserting in the definition of "Waste", after the word "Tobacco" the first time it appears, the word "materials".

3. Section 270.44 is changed by rewording the second sentence to read "Where the products are not sold, the officer may deliver them to a Federal or State hospital or institution (if they are fit for consumption) or cause their destruction by burning completely or by rendering them unfit for consumption."

4. Section 270.63 is changed by rewording the second and third sentences to read "The corporation shall also furnish evidence, in duplicate, of the identity of the officers and directors, and each person who holds more than ten percent of the stock of such corporation. Where any of the information required by this section has previously been filed with the same assistant regional commissioner and such information is currently complete and accurate, a written statement, in duplicate, to that effect by the corporation, will be sufficient for the purpose of this section."

5. The second sentence of § 270.64 is changed to read "Where a partnership or association has previously filed such documents with the same assistant regional commissioner and such documents are currently complete and accurate, a written statement, in duplicate, to that effect by the partnership or association, will be sufficient for the purpose of this section."

6. The second sentence of § 270.65 is changed to read "If no such certificate or other document is so required, a written statement, in duplicate, to that

effect by such person, will be sufficient for the purpose of this section."

7. The first sentence of § 270.68 is changed by striking the words "under this part" and inserting in lieu thereof the words "to be executed".

8. The first sentence of § 270.74 is changed by inserting the word "and" after the word "permit" the first time it appears in the sentence.

9. Section 270.102 is changed by striking the fourth sentence and inserting in lieu thereof new fourth and fifth sentences to read "The predecessor shall make a concluding inventory and concluding report, in accordance with the provisions of § 270.201 and § 270.202, respectively, and surrender his permit with such inventory and report. The successor shall make a commencing inventory and commencing report in accordance with the provisions of § 270.201 and § 270.202, respectively."

10. Section 270.113 is changed by rewording the second sentence to read "The manufacturer shall notify the assistant regional commissioner for the region from which he is removing his factory of his qualification in the new region, giving the address of the new location of his factory and the number of the permit issued to him in the new region, make a concluding inventory and concluding report in accordance with the provisions of § 270.201 and § 270.202, respectively, and surrender the permit for his old location with such inventory and report."

11. Section 270.212 is changed by striking "such factory." and adding the following "the factory from which such products are to be so removed: *Provided*, That the Director may on application authorize a manufacturer to mark packages of tobacco products manufactured in and removed subject to tax from any of his factories with only the name of the manufacturer if the factory of production is identified on the package by a statement (e.g., manufactured in Richmond, Va.), symbol, or other means (other than a permit number), approved by the Director."

12. The first sentence of § 270.251 is changed by striking the phrase "or the extension of coverage of bond".

13. Section 270.252 is changed by striking "§ 270.311." at the end of the third sentence and inserting "§§ 270.311 and 270.313."

14. Section 270.253 is changed by striking "§ 270.311." at the end of the fifth sentence and inserting "§§ 270.311 and 270.313."

Effective date. The regulations in this part shall be effective on the first day of the first month which begins not less than 30 days following the date of publication in the FEDERAL REGISTER.

These regulations are issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: August 28, 1961.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

Preamble. 1. These regulations, 26 CFR Part 270, "Manufacture of Tobacco Products," are promulgated to prescribe provisions relating to the production and taxpayment of cigars, cigarettes, and manufactured tobacco in a single part of this chapter, and to implement the Internal Revenue Code of 1954 as amended by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275). These regulations supersede the existing regulations in 26 CFR Part 270 and Subpart E of 26 CFR Part 296 in their entirety, and prescribe revision of provisions formerly included in 26 CFR Part 270 relating to manufacturers of cigars and cigarettes, prescribe revision of provisions formerly included in 26 CFR Part 275 relating to manufacturers of tobacco, and prescribe revision of provisions formerly included in Subpart E of 26 CFR Part 296 relating to taxpayment of cigars, cigarettes, and manufactured tobacco by manufacturers of tobacco products.

2. These regulations shall not affect any act done, or any liability or right accruing or accrued, or any suit or proceeding had or commenced, before the effective date of these regulations.

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AUTHORITY: §§ 270.1 to 270.332 are issued under section 7805, 68A Stat. 917; 26 U.S.C. 7805. Additional authority is cited in parentheses following the sections affected.

Subpart A—Scope of Regulations

§ 270.1 Manufacture of tobacco products.

This part contains the regulations relating to the manufacture of tobacco products; the payment by manufacturers of tobacco products of internal revenue taxes imposed by Chapter 52 of the Internal Revenue Code; and the qualification of and operations by manufacturers of tobacco products.

§ 270.2 Territorial extent.

The provisions of the regulations in this part shall apply in the several States of the United States and the District of Columbia.

Subpart B—Definitions

§ 270.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, each of the following terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, words in the singular form shall include the plural, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

CFR. The Code of Federal Regulations.

Cigar. Any roll of tobacco wrapped in tobacco.

Cigarette. Any roll of tobacco, wrapped in paper or any substance other than tobacco.

Commissioner. The Commissioner of Internal Revenue.

Dealer in tobacco materials. Any person who receives and handles tobacco materials for sale, shipment, or delivery to another dealer in such materials, to a manufacturer of tobacco products, or to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or who receives tobacco materials, other than stems and waste, for use by him in the production of fertilizer, insecticide, or nicotine. The term "dealer in tobacco materials" shall not include (a) an operator of a warehouse who stores tobacco materials solely for a qualified dealer in tobacco materials, for a qualified manufacturer of tobacco products, for a farmer or grower of tobacco, or for a bona fide association of farmers or growers of tobacco; (b) a farmer or grower of tobacco with respect to the sale of leaf tobacco of his own growth or raising, or a bona fide association of farmers or growers of tobacco with respect to sales of leaf tobacco grown by farmer or grower members, if the tobacco so sold is in the condition as cured on the farm: *Provided*, That such association maintains records of all leaf tobacco acquired or received and sold or otherwise disposed of by the association, in accordance with Part 280 of this chapter; (c) a person who buys leaf tobacco on the floor of an auction warehouse, or who buys leaf tobacco from a farmer or grower, and places the tobacco on the floor of such a warehouse, or who purchases and sells warehouse receipts without taking physical possession of the tobacco covered thereby; or (d) a qualified manufacturer of tobacco products with respect to tobacco materials received by him under his bond as such a manufacturer.

Determined or determination. When used with respect to the tax on tobacco products, determined or determination shall mean that the quantity, kind, and class if applicable, of cigars, cigarettes, or manufactured tobacco to be removed subject to tax have been established as prescribed by this part so that the tax payable with respect thereto may be calculated.

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

District director. A district director of internal revenue.

Export warehouse. A bonded internal revenue warehouse for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

Export warehouse proprietor. Any person who operates an export warehouse.

Factory. The premises of a manufacturer of tobacco products as described in his permit issued under Chapter 52, I.R.C.

In bond. The status of tobacco materials, tobacco products, and cigarette papers and tubes, which come within the coverage of a bond securing the payment of internal revenue taxes imposed by

section 5701 or section 7652, I.R.C., and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) such materials and articles in a factory, (b) such materials and articles removed, transferred, or released, pursuant to section 5704, I.R.C., and with respect to which relief from the tax liability has not occurred, and (c) such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond.

Internal revenue officer. An officer or employee of the Internal Revenue Service duly authorized to perform any function relating to the administration or enforcement of this part.

I.R.C. The Internal Revenue Code of 1954, as amended.

Large cigarettes. Cigarettes weighing more than three pounds per thousand.

Large cigars. Cigars weighing more than three pounds per thousand.

Manufactured tobacco. Tobacco (other than cigars and cigarettes) prepared, processed, manipulated, or packaged, for removal, or merely removed, for consumption by smoking or for use in the mouth or nose, and any tobacco (other than cigars and cigarettes), not exempt from tax under Chapter 52, I.R.C., sold or delivered to any person contrary to the provisions of such chapter or regulations thereunder.

Manufacturer of tobacco. Any manufacturer of tobacco products who prepares, processes, manipulates, or packages, for removal, or merely removes, tobacco (other than cigars and cigarettes) for consumption by smoking or for use in the mouth or nose.

Manufacturer of tobacco products. Any person who manufactures cigars or cigarettes, or who prepares, processes, manipulates, or packages, for removal, or merely removes, tobacco (other than cigars and cigarettes) for consumption by smoking or for use in the mouth or nose, or who sells or delivers any tobacco (other than cigars and cigarettes) contrary to the provisions of Chapter 52, I.R.C., or regulations thereunder. The term "manufacturer of tobacco products" shall not include (a) a person who in any manner prepares tobacco, or produces cigars or cigarettes, solely for his own personal consumption or use; (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse; (c) a farmer or grower of tobacco with respect to the sale of leaf tobacco of his own growth or raising, if it is in the condition as cured on the farm; or (d) a bona fide association of farmers or growers of tobacco with respect to sales of leaf tobacco grown by farmer or grower members, if the tobacco so sold is in the condition as cured on the farm, and if the association maintains records of all leaf tobacco, acquired or received and sold or otherwise disposed of, in accordance with Part 280 of this chapter.

Package. The container in which tobacco products are put up by the manufacturer and offered for sale or delivery to the consumer.

Person. An individual, partnership, association, company, corporation, estate, or trust.

Region. An internal revenue region.

Regional commissioner. A regional commissioner of internal revenue.

Removal or remove. The removal of tobacco products from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States.

Small cigarettes. Cigarettes weighing not more than three pounds per thousand.

Small cigars. Cigars weighing not more than three pounds per thousand.

Stems. The stems or midribs of tobacco.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Tobacco materials. Tobacco (other than manufactured tobacco, cigars, and cigarettes), including tobacco in process, Perique, Black Fat, leaf tobacco, and tobacco scraps, cuttings, clippings, siftings, stems, and waste. Tobacco materials are categorized:

(a) **Unstemmed leaf tobacco.** Leaf tobacco from which the stem or midrib has not been removed.

(b) **Other tobacco materials.** Tobacco materials other than unstemmed leaf tobacco.

Tobacco products. Manufactured tobacco, cigars, and cigarettes.

U.S.C. The United States Code.

Waste. Tobacco materials, including dust, and foreign substances resulting from the handling, manipulation, or processing of tobacco, and which are worthless for use in the manufacture of tobacco products and have no market value for that purpose.

Subpart C—Taxes

§ 270.21 Cigar tax rates.

On cigars, manufactured in or imported into the United States, the following taxes are imposed by law:

(a) **Small cigars.** 75 cents per thousand.

(b) **Large cigars.** (1) If removed to retail at not more than 2½ cents each, \$2.50 per thousand;

(2) If removed to retail at more than 2½ cents each and not more than 4 cents each, \$3 per thousand;

(3) If removed to retail at more than 4 cents each and not more than 6 cents each, \$4 per thousand;

(4) If removed to retail at more than 6 cents each and not more than 8 cents each, \$7 per thousand;

(5) If removed to retail at more than 8 cents each and not more than 15 cents each, \$10 per thousand;

(6) If removed to retail at more than 15 cents each and not more than 20 cents each, \$15 per thousand; and

(7) If removed to retail at more than 20 cents each, \$20 per thousand.

Cigars not exempt from tax under Chapter 52, I.R.C., and the provisions of this part which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

(72 Stat. 1414; 26 U.S.C. 5701)

§ 270.22 Classification of large cigars.

Large cigars are divided into seven classes, for tax purposes, corresponding with the rates of tax imposed by section 5701(b)(2), I.R.C., and based on the retail price intended by the manufacturer for such cigars. The classes are designated, from the lowest to the highest rate of tax, as Class A, Class B, Class C, Class D, Class E, Class F, and Class G, respectively. In establishing the retail price, for tax purposes, regard shall be had to the ordinary retail price of a single cigar in its principal market, exclusive of any State or local taxes imposed on cigars as a commodity. Where there is more than one price for the same cigar in its principal market, the tax to be paid shall be determined, at the time of removal, according to the price at which the majority are sold therein. Subsequent retail sale at a price in excess of the maximum for the class at which taxpaid will not, in itself, cause the manufacturer to incur any additional tax liability.

(72 Stat. 1414; 26 U.S.C. 5701)

§ 270.23 Cigarette tax rates.

On cigarettes, manufactured in or imported into the United States, the following taxes are imposed by law:

(a) **Small cigarettes.** \$4 per thousand.

(b) **Large cigarettes.** \$8.40 per thousand; except that where such cigarettes are more than 6½ inches in length, the rate of tax is \$4 per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(72 Stat. 1414; 26 U.S.C. 5701)

§ 270.24 Classification of cigarettes.

For tax purposes, small cigarettes are designated Class A and large cigarettes are designated Class B.

(72 Stat. 1414; 26 U.S.C. 5701)

§ 270.25 Manufactured tobacco tax rate.

On tobacco, manufactured in or imported into the United States, a tax of 10 cents per pound is imposed by law.

(72 Stat. 1414; 26 U.S.C. 5701)

§ 270.26 Persons liable for tax.

The manufacturer of tobacco products shall be liable for the taxes imposed on such products by section 5701, I.R.C.: *Provided*, That when tobacco products are transferred in bond pursuant to section 5704, I.R.C., to the bonded premises of another such manufacturer or an export warehouse proprietor, the transferee shall become liable for the tax upon receipt by him of such products and the transferor shall thereupon be relieved of his liability for the tax. When tobacco products are released in bond from customs custody for transfer to the bonded premises of a manufacturer of tobacco products, the transferee shall become liable for the tax on such products upon release from customs custody. Any person who possesses tobacco products in violation of section 5751(a) (1) or (2), I.R.C., shall be liable for a tax equal to the tax on such products.

(72 Stat. 1417, 1424; 26 U.S.C. 5703, 5751)

§ 270.27 Assessment.

Whenever any person required by law to pay tax on tobacco products fails to pay such tax, the tax shall be ascertained and assessed against such person, subject to the limitations prescribed in section 6501, I.R.C. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required. Except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after notice has been afforded such person to show cause against assessment. The person will be allowed 45 days from the date of such notice to show cause, in writing, against such assessment.

(72 Stat. 1417; 26 U.S.C. 5703)

Subpart D—Administrative Provisions

§ 270.41 Forms prescribed.

The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part. When a return, form, claim, or other document called for under this part is required by this part, or by the document itself, to be executed under penalties of perjury, it shall be so executed.

§ 270.42 Authority of internal revenue officers to enter premises.

Any internal revenue officer may enter in the daytime any premises where tobacco products are produced or kept, so far as it may be necessary for the purpose of examining such products. When such premises are open at night, any internal revenue officer may enter them, while so open, in the performance of his official duties. The owner of such premises, or person having the superintendence of the same, who refuses to admit any internal revenue officer or permit him to examine such products shall be liable to the penalties prescribed by law for the offense.

(68A Stat. 872, 903; 26 U.S.C. 7342, 7606)

§ 270.43 Interference with administration.

Whoever, corruptly or by force or threats of force, endeavors to hinder or obstruct the administration of this part, or endeavors to intimidate or impede any internal revenue officer acting in his official capacity, or forcibly rescues or attempts to rescue or causes to be rescued any property, after it has been duly seized for forfeiture to the United States in connection with a violation of the internal revenue laws, shall be liable to the penalties prescribed by law.

(68A Stat. 855; 26 U.S.C. 7212)

§ 270.44 Disposal of forfeited, condemned, and abandoned tobacco products.

When any Federal, State, or local officer having custody of forfeited, condemned, or abandoned tobacco products, upon which the Federal tax has not been

paid, is of the opinion that the sale thereof will not bring a price equal to the tax due and payable thereon, and the expenses incident to the sale thereof, he shall not sell, nor cause to be sold, such products for consumption in the United States. Where the products are not sold, the officer may deliver them to a Federal or State hospital or institution (if they are fit for consumption) or cause their destruction by burning completely or by rendering them unfit for consumption. Where such products are sold, they shall not be released by the officer having custody thereof until they are properly packaged and taxpaid, which tax shall be considered as a portion of the sales price. The payment of tax on such products shall be evidenced by presentation, to the officer having custody of the products, of a receipt from the district director showing such payment. In the case of such products held by or for the Federal Government, the sale thereof shall be subject to the applicable provisions of the Regulations of the General Services Administration, Title 1, Personal Property Management.

(72 Stat. 1425; 26 U.S.C. 5753)

§ 270.45 Alternate methods or procedures.

A manufacturer of tobacco products, on specific approval by the Director as provided in this section, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when he finds that—

(a) Good cause has been shown for the use of the alternate method or procedure.

(b) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue, and

(c) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure relating to the giving of any bond or to the assessment, payment, or collection of tax, shall be authorized under this section. Where a manufacturer desires to employ an alternate method or procedure, he shall submit a written application to do so, in triplicate, to the assistant regional commissioner for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor. Alternate methods or procedures shall not be employed until the application has been approved by the Director. The manufacturer shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of

this part is hindered. The manufacturer shall retain, as part of his records, any authorization of the Director under this section.

§ 270.46 Emergency variations from requirements.

The Director may approve methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations—

(a) Will afford the security and protection to the revenue intended by the prescribed specifications,

(b) Will not hinder the effective administration of this part, and

(c) Will not be contrary to any provision of law.

Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for such variations and the manufacturer thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variations may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where a manufacturer desires to employ such variation, he shall submit a written application to do so, in triplicate, to the assistant regional commissioner for transmittal to the Director. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved. The manufacturer shall retain, as part of his records, any authorization of the Director under this section.

§ 270.47 Other businesses within factory.

The Director may authorize such other businesses within the factory as he finds will not jeopardize the revenue, will not hinder the effective administration of this part, and will not be contrary to law.

§ 270.48 Penalties and forfeitures.

Anyone who fails to comply with the provisions of this part becomes liable to the civil and criminal penalties, and forfeitures, provided by law.

(72 Stat. 1425, 1426; 26 U.S.C. 5761, 5762, 5763)

Subpart E—Qualification Requirements for Manufacturers

§ 270.61 Persons required to qualify.

Every person who produces any tobacco products, except for his own personal consumption or use, shall qualify as a manufacturer of tobacco products in accordance with the provisions of this part: *Provided*, That a person who on the effective date of this part holds a valid permit as a manufacturer of cigars and cigarettes or as a manufacturer of tobacco may continue the operations au-

thorized to be performed under such permit, in accordance with the provisions of this part. A person holding a valid permit as a manufacturer of cigars and cigarettes or as a manufacturer of tobacco, or holding a limited permit substituted therefor as provided in § 270.75, who desires to obtain a permit as a manufacturer of tobacco products without limitation as to kind of tobacco product that may be produced in his factory shall make application therefor in accordance with this subpart.

(72 Stat. 1421; 26 U.S.C. 5711, 5712, 5713)

§ 270.62 Application for permit.

Every person, before commencing business as a manufacturer of tobacco products as defined in § 270.11, shall make application for, and obtain, the permit provided in § 270.75, covering operations at each proposed factory. Such application shall be made on Form 2093, in duplicate, to the assistant regional commissioner for the region in which the proposed factory will be located. All documents required under this part to be furnished with such application shall be made a part thereof. Where the applicant for a permit under this section holds a permit or permits authorizing the production of any tobacco products at premises to be covered by the permit applied for, the applicant shall surrender such permit or permits for cancellation, upon the issuance of the permit applied for.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.63 Corporate documents.

Every corporation, before commencing business as a manufacturer of tobacco products, shall furnish with its application for permit, required by § 270.62, a true copy of the corporate charter or a certificate of corporate existence or incorporation, executed by the appropriate officer of the State in which incorporated. The corporation shall also furnish evidence, in duplicate, of the identity of the officers and directors, and each person who holds more than ten percent of the stock of such corporation. Where any of the information required by this section has previously been filed with the same assistant regional commissioner and such information is currently complete and accurate, a written statement, in duplicate, to that effect by the corporation will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.64 Articles of partnership or association.

Every partnership or association, before commencing business as a manufacturer of tobacco products, shall furnish with its application for permit, required by § 270.62, a true copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality. Where a partnership or association has previously filed such documents with the same assistant regional commissioner and such documents are currently complete and accurate, a written statement, in duplicate, to that effect by the part-

nership or association will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.65 Trade name certificate.

Every person, before commencing business under a trade name as a manufacturer of tobacco products, shall furnish with his application for permit, required by § 270.62, a true copy of the certificate or other document, if any, issued by a State, county, or municipal authority in connection with the transaction of business under such trade name. If no such certificate or other document is so required, a written statement, in duplicate, to that effect by such person will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.66 Bond.

Every person, before commencing business as a manufacturer of tobacco products, shall file, in connection with his application for permit, a bond on Form 3070, in duplicate, in accordance with the applicable provisions of Subpart G of this part, conditioned upon compliance with the provisions of Chapter 52, I.R.C., and regulations thereunder, including, but not limited to, the timely payment of taxes imposed by such chapter and penalties and interest in connection therewith for which he may become liable to the United States: *Provided*, That any person who, on the effective date of this part, has on file a valid and adequate bond, Form 2100, "Bond—Manufacturer of Cigars and Cigarettes," or Form 2099, "Bond—Manufacturer of Tobacco," as the case may be, may continue, under such bond, the operations with respect to the permit to which that bond relates (including a permit substituted therefor under the provisions of § 270.75), in accordance with the provisions of this part.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 270.67 Blanket bond.

Where a manufacturer of tobacco products operates more than one factory in the same region he may, in lieu of filing separate bonds, file a blanket bond on Form 3070, in duplicate, in accordance with the provisions of § 270.134, for any or all of the factories in the same region. The total amount of any blanket bond given under this section shall be available for the satisfaction of any liability incurred at any factory covered by the bond.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 270.68 Power of attorney.

If the application for permit or any other document required to be executed is signed by an attorney in fact for an individual, partnership, association, company, or corporation, or by one of the partners for a partnership, or by one of the members of an association, power of attorney on Form 1534 shall be furnished to the assistant regional commissioner. If such application or other document is signed on behalf of a corporation by an officer thereof, it must be supported by duly authenticated extracts of the stockholders' meeting, bylaws, or direc-

tors' meeting authorizing such officer to execute such document for the corporation. Form 1534 or support of authority does not have to be filed again with an assistant regional commissioner where such form or support has previously been submitted to that assistant regional commissioner and is still in effect.

§ 270.69 Factory premises.

The premises to be used by a manufacturer of tobacco products as his factory may consist of more than one building, or portions of buildings, which need not be contiguous but must be located in the same city, town, or village: Except that, where the assistant regional commissioner determines that a building or portion of a building which is not within the city, town, or village, is so conveniently and closely situated to the general factory premises as to present no jeopardy to the revenue and as to offer no hindrance to the administration of this part, he may authorize the inclusion of such building or portion of building as part of the factory. The buildings or portions of buildings shall be described in the application for permit and the bond by number, street, and city, town, or village, and State. Where the factory consists of a portion of a building, or where portions of buildings are part of the factory, a diagram, in duplicate, shall also be furnished showing the particular floor or floors, or room or rooms, comprising the factory or part thereof. The diagram shall also show any adjoining retail store, operated by such manufacturer, where tobacco products are sold.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.70 Separation of and access to factory.

Where the factory consists of a portion of a building, or where portions of buildings are part of the factory, the factory shall be completely separated by walls from adjoining portions of the building. Such walls shall be securely constructed of substantial materials. The assistant regional commissioner may, wherever he finds that the revenue will not be jeopardized, authorize openings and doors in such walls or means of separation other than walls if such means adequately delineate the factory. The factory shall be accessible directly from a street, yard, common passageway, or other common means of entrance.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.71 Factories established prior to effective date.

Factories established prior to the effective date of this part shall not be subject to the provisions of § 270.70 if, in the opinion of the assistant regional commissioner, the existing premises afford adequate protection to the revenue.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.72 Use of factory premises.

Unless otherwise authorized by the Director as provided in § 270.47, the factory premises shall be used exclusively for the purposes of manufacturing and storing tobacco products; storing materials, equipment, and supplies related thereto or used or useful in the conduct of the

business; and carrying on activities in connection with the business of the manufacturer.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.73 Additional information.

The assistant regional commissioner may require such additional information as he may deem necessary to determine whether the applicant is entitled to a permit under the provisions of this part. The applicant shall, when required by the assistant regional commissioner, furnish as a part of his application for such permit such additional information as may be necessary for the assistant regional commissioner to determine whether the applicant is entitled to a permit.

§ 270.74 Investigation of applicant.

As the assistant regional commissioner deems necessary he will cause inquiry or investigation to be made to verify the information furnished in connection with an application for permit and to ascertain whether the applicant is, by reason of his business experience, financial standing, and trade connections, likely to maintain operations in compliance with Chapter 52, I.R.C., and regulations thereunder; whether such person has disclosed all material information required or made any material false statement in the application for such permit; and whether the premises on which it is proposed to establish the factory are adequate to protect the revenue. If the assistant regional commissioner has reason to believe that the applicant is not entitled to a permit, he shall promptly give the applicant notice of the contemplated disapproval of his application and opportunity for hearing thereon in accordance with Part 200 of this chapter, which part (including the provisions relating to the recommended decision and to appeals) is applicable to such proceedings. If, after such notice and opportunity for hearing, the assistant regional commissioner finds that the applicant is not entitled to a permit, he shall, by order stating the findings on which his decision is based, deny the permit.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.75 Issuance of permit.

If the application for permit, together with the bond and supporting documents, required under this part is approved by him, the assistant regional commissioner shall issue a permit on Form 2096 to the applicant as a manufacturer of tobacco products: *Provided*, That without the filing of an application therefor, the assistant regional commissioner may substitute a permit on Form 2096 to replace a valid permit as a manufacturer of cigars and cigarettes or as a manufacturer of tobacco. Such substitute permit shall be appropriately limited so as to authorize only the operations which were authorized under the permit being replaced. Upon the issuance of the substitute permit, the replaced permit shall become null and void and shall be surrendered for cancellation.

(72 Stat. 1421; 26 U.S.C. 5713)

§ 270.76 Retention of permit and supporting documents.

The manufacturer shall retain his permit, together with the copy of the application and supporting documents returned to him with the permit, at the same place where the records required by this part are kept and they shall be made available for inspection by any internal revenue officer upon his request.

(72 Stat. 1421, 1423; 26 U.S.C. 5712, 5713, 5741)

Subpart F—Changes After Original Qualification of Manufacturers

CHANGES IN NAME

§ 270.91 Change in individual name.

Where there is a change in the name of an individual operating as a manufacturer of tobacco products he shall, within 30 days of such change, make application on Form 2098 for an amended permit.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.92 Change in trade name.

Where there is a change in the trade name of a manufacturer of tobacco products, the manufacturer shall, within 30 days of the adoption of the new trade name, make application on Form 2098 for an amended permit. The manufacturer shall also furnish a true copy of any new trade name certificate or document issued to him, or statement in lieu thereof, required by § 270.65.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.93 Change in corporate name.

Where there is a change in the name of a corporate manufacturer of tobacco products, the manufacturer shall, within 30 days of such change, make application on Form 2098 for an amended permit. The manufacturer shall also furnish such documents as may be necessary to establish that the corporate name has been changed.

(72 Stat. 1421; 26 U.S.C. 5712)

CHANGES IN OWNERSHIP AND CONTROL

§ 270.101 Fiduciary successor.

If an administrator, executor, receiver, trustee, assignee, or other fiduciary, is to take over the business of a manufacturer of tobacco products, as a continuing operation, such fiduciary shall, before commencing operations, make application for permit and file bond as required by Subpart E of this part, furnish certified copies, in duplicate, of the order of the court, or other pertinent documents, showing his appointment and qualification as such fiduciary, and make a commencing inventory, in accordance with the provisions of § 270.201: *Provided*, That where a diagram has been furnished by the predecessor, in accordance with the provisions of § 270.69, the successor may adopt such diagram if it is currently complete and accurate. However, where a fiduciary intends only to liquidate the business, qualification as a manufacturer of tobacco products will not be required if he promptly files with the assistant regional commissioner a written statement to that effect, in du-

plicate, together with an extension of coverage of the predecessor's bond, executed by the fiduciary and the surety on such bond, in accordance with the provisions of § 270.137.

(72 Stat. 1421, 1422; 26 U.S.C. 5711, 5712, 5721)

§ 270.102 Transfer of ownership.

If a transfer is to be made in ownership of the business of a manufacturer of tobacco products (including a change of any member of a partnership or association), such manufacturer shall give notice, in writing, to the assistant regional commissioner, naming the proposed successor and the desired effective date of such transfer. The proposed successor shall, before commencing operations, qualify as a manufacturer of tobacco products, in accordance with the applicable provisions of Subpart E of this part: *Provided*, That where a diagram has been furnished by the manufacturer in accordance with the provisions of § 270.69, the proposed successor may adopt such diagram if it is currently complete and accurate. The manufacturer shall give such notice of transfer, and the proposed successor shall make application for permit and file bond, as required, in ample time for examination and approval thereof before the desired date of such change. The predecessor shall make a concluding inventory and concluding report, in accordance with the provisions of § 270.201 and § 270.202, respectively, and surrender his permit with such inventory and report. The successor shall make a commencing inventory and commencing report, in accordance with the provisions of § 270.201 and § 270.202, respectively.

(72 Stat. 1421, 1422; 26 U.S.C. 5711, 5712, 5713, 5721, 5722)

§ 270.103 Change in officers, directors, or stockholders of a corporation.

Upon election or appointment (excluding successive reelection or reappointment) of any officer or director of a corporation operating the business of a manufacturer of tobacco products, or upon any occurrence which results in a person acquiring ownership or control of more than ten percent in aggregate of the outstanding stock of such corporation, the manufacturer shall, within 30 days of such action, so notify the assistant regional commissioner in writing, giving the identity of such person.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.104 Change in control of a corporation.

Where the issuance, sale, or transfer of the stock of a corporation, operating as a manufacturer of tobacco products, results in a change in the identity of the principal stockholders exercising actual or legal control of the operations of the corporation, the corporate manufacturer shall, within 30 days after the change occurs, make application on Form 2093 for a new permit. Otherwise, the present permit shall be automatically terminated at the expiration of such 30-day period, and the manufacturer shall dispose of all

tobacco materials and tobacco products on hand, in accordance with this part, make a concluding inventory and concluding report, in accordance with the provisions of § 270.201 and § 270.202, respectively, and surrender his permit with such inventory and report. If the application for a new permit is timely made, the present permit shall continue in effect pending final action with respect to such application.

(72 Stat. 1421, 1422; 26 U.S.C. 5712, 5713, 5721, 5722)

CHANGES IN LOCATION AND FACTORY

§ 270.111 Change in location within same region.

Whenever a manufacturer of tobacco products intends to relocate his factory within the same region, the manufacturer shall, before commencing operations at the new location, make application on Form 2098 for, and obtain, an amended permit. The application shall be supported by an extension of coverage of bond in accordance with the provisions of § 270.137.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

§ 270.112 Change in address.

Whenever any change occurs in the address, but not the location, of the factory of a manufacturer of tobacco products, as a result of action of local authorities, the manufacturer shall, within 30 days of such change, make application on Form 2098 for an amended permit.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 270.113 Change in location to another region.

Whenever a manufacturer of tobacco products intends to remove his factory to another region, the manufacturer shall, before commencing operations at the new location, qualify as such a manufacturer in the new region, in accordance with the applicable provisions of Subpart E of this part. The manufacturer shall notify the assistant regional commissioner for the region from which he is removing his factory of his qualification in the new region, giving the address of the new location of his factory and the number of the permit issued to him in the new region, make a concluding inventory and concluding report in accordance with the provisions of § 270.201 and § 270.202, respectively, and surrender the permit for his old location with such inventory and report.

(72 Stat. 1421, 1422; 26 U.S.C. 5711, 5712, 5713, 5721, 5722)

§ 270.114 Extension or curtailment of factory.

Where a tobacco products factory is to be changed to an extent which will make inaccurate the description of the factory as set forth in the last application by the manufacturer for permit, or the diagram, if any, furnished with such application, the manufacturer shall first make an application on Form 2098 for, and obtain, an amended permit. Such application shall describe the proposed change in the factory and shall be accompanied by a new diagram if required under the provisions of § 270.69.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

Subpart G—Bonds and Extensions of Coverage of Bonds

§ 270.131 Corporate surety.

Surety bonds, required under the provisions of this part, may be given only with corporate sureties holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds. Power of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of such corporate sureties shall be filed with, and passed upon by, the Surety Bonds Branch, Division of Deposits and Investments, Bureau of Accounts, Treasury Department. Limitations concerning corporate sureties are prescribed by the Secretary in Treasury Department Circular No. 570, as revised. The surety shall have no interest whatever in the business covered by the bond.

(61 Stat. 648, 72 Stat. 1421; 6 U.S.C. 6, 26 U.S.C. 5711)

§ 270.132 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety the manufacturer of tobacco products may pledge and deposit, as security for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR Part 225.

(61 Stat. 650, 72 Stat. 1421; 6 U.S.C. 15, 26 U.S.C. 5711)

§ 270.133 Amount of individual bond.

The amount of the bond of a manufacturer of tobacco products shall be not less than the total amount of tax liability on all tobacco products manufactured in his factory, received in bond from other factories and from export warehouses, and released to him in bond from customs custody, during any calendar month. Where the amount of any bond is no longer sufficient and the bond is in less than the maximum amount, the manufacturer shall immediately file a strengthening or superseding bond as required by this subpart. The amount of any such bond (or the total amount including strengthening bonds, if any) need not exceed \$250,000 for a manufacturer producing or receiving cigarettes in bond, need not exceed \$150,000 for a manufacturer producing or receiving cigars in bond, and need not exceed \$25,000 for a manufacturer producing or receiving manufactured tobacco in bond. Except that, if more than one kind of tobacco product is produced or received in bond in a factory, the bond for that factory need not exceed the amount of the largest maximum bond prescribed with respect to any of the kinds of tobacco products produced or received in bond therein. The bond of a manufacturer of tobacco products shall in no case be less than \$1,000.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 270.134 Amount of blanket bond.

In the case of a blanket bond filed under the provisions of § 270.67, where the total amount of individual bonds otherwise required for the factories under § 270.133 does not exceed \$250,000, such blanket bond shall be not less than

the total amount of such individual bonds. Where the total amount of such individual bonds required is in excess of \$250,000 but not in excess of \$500,000, the amount of the blanket bond shall be not less than \$250,000 plus 50 percent of such total amount which is in excess of \$250,000. Where the total amount of such individual bonds required is in excess of \$500,000 the amount of the blanket bond shall be not less than \$375,000 plus 25 percent of such total amount which is in excess of \$500,000.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 270.135 Strengthening bond.

Where the amount of any bond is no longer sufficient under the provisions of § 270.133 or § 270.134, the manufacturer shall immediately file a strengthening bond in an appropriate amount with the same surety as that on the bond already in effect, unless a superseding bond is filed pursuant to § 270.136. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full amount.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 270.136 Superseding bond.

A manufacturer of tobacco products shall immediately file a new bond to supersede his current bond when (a) the corporate surety on the current bond becomes insolvent, (b) the assistant regional commissioner approves a request from the surety on the current bond to terminate his liability under the bond, (c) payment of any liability under a bond is made by the surety thereon, (d) the amount of the bond is no longer sufficient under the provisions of § 270.133 or § 270.134 and a strengthening bond has not been filed, or (e) the assistant regional commissioner considers such a superseding bond necessary for the protection of the revenue. Where a bond is not filed as required under the provisions of this section the manufacturer shall discontinue forthwith the operations to which such bond relates.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 270.137 Extension of coverage of bond.

An extension of coverage of bond shall be manifested on Form 2105 by the manufacturer of tobacco products and by the surety on the bond with the same formality and proof of authority as required for the execution of the bond.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 270.138 Approval of bond and extension of coverage of bond.

No person shall commence operations under any bond, nor extend his operations, until he receives from the assistant regional commissioner notice of his approval of the bond or of an appropriate extension of coverage of the bond required under this part.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 270.139 Termination of surety's liability.

The liability of a surety on any bond required by this part shall be terminated

only as to operations on and after the effective date of a superseding bond, or the date of discontinuance of operations by the manufacturer under § 270.331 or otherwise in accordance with the termination provisions of the bond. The surety shall remain bound in respect of any liability for unpaid taxes, penalties, and interest, not in excess of the amount of the bond, incurred by the manufacturer while the bond is in force.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 270.140 Release of pledged securities.

Securities of the United States pledged and deposited as provided in § 270.132 shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the assistant regional commissioner until liability under the bond for which they were pledged has been terminated. When the assistant regional commissioner is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the assistant regional commissioner may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650, 72 Stat. 1421; 6 U.S.C. 15, 26 U.S.C. 5711)

§ 270.141 Extension of coverage for bond executed prior to June 24, 1959.

Every manufacturer of tobacco products who desires to remove tobacco products on determination of tax and before payment of tax shall, before such removal, have an approved extension of coverage of bond on Form 2105 on file with the assistant regional commissioner for every bond, Form 2099 or 2100, executed prior to June 24, 1959, under which such removals are to be made. This extension of coverage shall be executed by the principal and the surety and shall be in the following form:

Whereas, the purpose of this extension is to bind the obligors for the payment of the tax on all tobacco products removed by the principal on determination of tax and before payment of the tax notwithstanding that the time for payment of tax may be deferred pursuant to a semimonthly return system as provided for by regulations.

Now, therefore, the above described bond is further specifically conditioned that the principal named therein shall pay all taxes (plus penalties, if any, and interest) for which he may become liable with respect to all tobacco products removed by him on determination of the tax and before payment of the tax thereon, and comply with all provisions of law and regulations with respect thereto.

The aforesaid terms and conditions shall, on and after the effective date, have the same force and effect as the other terms and conditions stated in the bond.

The extension of coverage of bond under this section is not required with respect to any bond executed on or after June 24, 1959.

(72 Stat. 1421; 26 U.S.C. 5711)

Subpart H—Operations by Manufacturers

DETERMINATION AND PAYMENT OF TAXES ON TOBACCO PRODUCTS

§ 270.161 Determination of tax and method of payment.

Except for removals in bond and transfers in bond, as authorized by law, the taxes imposed on tobacco products by section 5701, I.R.C., shall be determined at the time of removal of such products and paid on the basis of a return, in accordance with the provisions of this part.

(72 Stat. 1417; 26 U.S.C. 5703)

§ 270.162 Semimonthly tax return.

Every manufacturer of tobacco products shall file, for each of his factories, a semimonthly tax return on Form 3071, in triplicate, with the district director of the internal revenue district in which the factory is located, for each and every return period, including any period during which a manufacturer begins or discontinues business. He shall file such return at the time specified in § 270.165, regardless of whether tobacco products are removed or whether tax is due for that particular return period: *Provided*, That where the manufacturer so requests by letter, in duplicate, and the assistant regional commissioner grants specific authorization, the manufacturer need not, during the term of such authorization, file a tax return for any period for which tax is not due or payable. The manufacturer shall show, on the return, the kinds and quantities, and tax class in the case of large cigars, of tobacco products removed subject to tax during the semimonthly return period and the tax due thereon. Where the return period covers a portion of two successive calendar months this information shall be shown on the return separately for each portion of a month covered. The manufacturer shall serially number each return on Form 3071 commencing with the number "1" on the first return filed in any calendar year, and shall verify by a written declaration that the return is made under penalties of perjury. The manufacturer shall retain the receipted copy of each tax return transmitted to him by the district director. The payment of the tax with respect to tobacco products removed subject to tax may be deferred and paid on the basis of a semimonthly return only if the manufacturer has on file a bond of sufficient amount executed on or after June 24, 1959, or, in the case of a bond of sufficient amount executed prior to such date, only if the manufacturer has filed the extension of coverage of bond as prescribed in § 270.141. Otherwise, the tax with respect to such removals shall be prepaid with return, Form 2617, as provided in § 270.167, and the semimonthly return required in this section shall be filed showing such prepayment and the serial number(s) of the Form(s) 2617 filed during the return period.

(72 Stat. 1417, 1423; 26 U.S.C. 5703, 5741)

§ 270.163 Semimonthly tax return periods.

The periods to be covered in the semimonthly tax returns shall be from the 9th day of each month to the 23d day of that month, inclusive, and from the 24th day of each month to the 8th day of the next succeeding month, inclusive.

(72 Stat. 1417; 26 U.S.C. 5703)

§ 270.164 Adjustments in the semimonthly return.

A manufacturer may make adjustments in Schedules A and B of his semimonthly tax return, Form 3071, as provided in this section. Schedule A of the return will be used where an unintentional error in a previous return resulted in an underpayment of tax. Schedule B of the return will be used where an unintentional error in a previous return resulted in an overpayment of tax, where prepayment of tax has been made during the return period, or where notice has been received from the assistant regional commissioner that a claim for allowance of tax has been approved. In the case of an overpayment, the manufacturer shall have the option of filing a claim (on Form 843) for refund or taking credit in Schedule B of the return, both subject to the period of limitations prescribed in section 6511, I.R.C. In the case of an adjustment based on prepayment of tax, the serial number(s) of the prepayment return(s), Form 2617, shall be shown. Any adjustments made in a return must be fully explained in the appropriate schedule or in a statement attached to and made a part of the return in which such adjustment is made.

(68A Stat. 701, 72 Stat. 1417; 26 U.S.C. 6402, 5703)

§ 270.165 Time of filing semimonthly return.

Every semimonthly tax return under this part shall be filed by the manufacturer not later than the third business day succeeding the last calendar day of the return period: *Provided*, That the return for the period ending on the 23d day of June of each year shall be filed not later than the second business day succeeding the last calendar day of the return period: *And provided further*, That where the return and remittance are delivered by United States mail to the office of the district director, the date in the official postmark of the United States Post Office stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery. As used in this section, the term "business day" shall mean any day other than Saturday, Sunday, a legal holiday in the District of Columbia, or a statewide legal holiday in the State wherein the return is required to be filed.

(72 Stat. 1416; 26 U.S.C. 5703)

§ 270.166 Default, prepayment of tax required.

Where a check or money order tendered with any return, whether semi-

monthly or prepayment, for payment of tax on tobacco products is not paid on presentment, where a manufacturer fails to remit with the return the full amount of tax due thereunder, or where a manufacturer is otherwise in default in payment of tax on tobacco products under the internal revenue laws or this chapter, during the period of such default and until the assistant regional commissioner finds that the revenue will not be jeopardized by the deferred payment of tax pursuant to the provisions of this part, no tobacco products shall be removed subject to tax until the tax thereon has first been paid as provided in § 270.167. Any remittance made during the period of such default shall be in cash, or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State or possession of the United States, or a United States postal money order or other money order as defined in § 301.6311-1 of this chapter (Procedure and Administration—Payment by check or money order).

(68A Stat. 777, 72 Stat. 1417; 26 U.S.C. 6311, 5703)

§ 270.167 Prepayment tax return.

To prepay the tax on tobacco products, a manufacturer shall file a prepayment tax return on Form 2617, in triplicate, with the district director of the internal revenue district in which the factory is located, showing the tax to be paid on the tobacco products prior to removal. The manufacturer shall serially number each return on Form 2617 commencing with the number "1" on the first return filed in any calendar year, and shall verify by a written declaration that the return is made under penalties of perjury. The return shall be filed with the district director prior to the removal of such products. The manufacturer shall retain the receipted copy of each prepayment return transmitted to him by the district director. A manufacturer prepaying the taxes on tobacco products under the provisions of this section shall continue to file semimonthly returns as required by § 270.162. Such semimonthly returns shall contain a statement, in Schedule B, that taxes have been prepaid by remittance with Form(s) 2617, and the statement shall indicate the serial number of Form(s) 2617 filed and the amount of taxes prepaid.

(72 Stat. 1417, 1423; 26 U.S.C. 5703, 5741)

§ 270.168 Remittance with return.

The tax on tobacco products shown to be due and payable on any return shall be paid by remittance in full with the tax return. Such remittance may be in any form which the district director is authorized to accept under the provisions of § 301.6311-1 of this chapter (Procedure and Administration—Payment by check or money order) and which is acceptable to him, except as is otherwise specified in § 270.166. Checks and money orders shall be made payable to "Internal Revenue Service." In paying the tax, a fractional part of a cent shall be disregarded unless it amounts to one-

half cent or more, in which case it shall be increased to one cent.

(68A Stat. 778, 72 Stat. 1417; 26 U.S.C. 6313, 5703)

RECORDS

§ 270.181 General.

Every manufacturer of tobacco products shall keep records of his operations and transactions which shall reflect, for each day, the information specified in §§ 270.182 and 270.183. For the aforesaid purpose "day" shall mean calendar day, except that the assistant regional commissioner may, upon application of the manufacturer by letter, in duplicate, authorize as such day for a factory a 24-hour cycle of operation other than the calendar day. A day once so established as other than the calendar day may be changed only by like application approved by the assistant regional commissioner. A manufacturer who maintains commercial records from which the required information may be readily ascertained may utilize such records for this purpose. Where a manufacturer does not maintain commercial records which adequately reflect the information required by this part, he shall keep a record on Form 3063 with respect to tobacco materials, on Form 3065 with respect to large cigars, on Form 3066 with respect to small cigars and large and small cigarettes, and on Form 3064 with respect to manufactured tobacco. The manufacturer shall keep the auxiliary and supplemental records from which such records are compiled, and shall keep a supporting record, as specified in § 270.184, of tobacco products removed subject to tax. Except as provided in § 270.184, the entries in the commercial or form records so maintained or kept shall be made not later than the close of the business day next following that on which the transactions occur. As used in this section, the term "business day" shall mean any day, other than Saturday, Sunday, a legal holiday in the District of Columbia, or a statewide legal holiday in the State wherein the factory to which the records relate is located.

(72 Stat. 1423; 26 U.S.C. 5741)

§ 270.182 Record of tobacco materials.

The record of a manufacturer of tobacco products shall show with respect to tobacco materials, the date and total quantity, in pounds, of all unstemmed leaf tobacco and other tobacco materials:

(a) Received (except samples which are to be consumed, used, or destroyed, for purposes of sampling, testing, or experimenting)—

(1) From a dealer in tobacco materials or manufacturer of tobacco products, together with the number of such dealer's establishment or the permit number of such manufacturer,

(2) From a farmer or grower, or tobacco growers' association, together with the name and address of such farmer, grower, or association,

(3) By reduction of tobacco products to tobacco materials,

(4) By release from customs custody, and

(5) By return to the factory;

(b) Shipped or delivered—

(1) To a dealer in tobacco materials or manufacturer of tobacco products, together with the number of such dealer's establishment or the permit number of such manufacturer,

(2) To a State institution, together with the name and address of such institution, and

(3) For export purposes;

(c) Lost; and

(d) Destroyed.

(72 Stat. 1423; 26 U.S.C. 5741)

§ 270.183 Record of tobacco products.

The record of a manufacturer of tobacco products shall show with respect to tobacco products, the date and total quantity of all cigars, cigarettes, and manufactured tobacco, by kind (small cigars—large cigars; small cigarettes—large cigarettes; plug—twist and other forms of leaf—fine-cut chewing—scrap chewing—smoking tobacco—snuff):

(a) Manufactured;

(b) Received in bond by—

(1) Transfer from other factories,

(2) Release from customs custody, and

(3) Transfer from export warehouses;

(c) Received by return to bond;

(d) Disclosed as an overage by inventory;

(e) Removed subject to tax (by class for large cigars);

(f) Removed, in bond, for—

(1) Export purposes,

(2) Use of the United States,

(3) Transfer to other factories,

(4) Experimental purposes off factory premises;

(g) Otherwise disposed of, without determination of tax, by—

(1) Use or consumption by employees on factory premises,

(2) Use or consumption by employees off factory premises, together with the number of employees to whom furnished,

(3) Use for experimental purposes on factory premises,

(4) Loss,

(5) Destruction, and

(6) Reduction to materials;

(h) Disclosed as a shortage by inventory; and

(i) On which the tax has been determined (by class for large cigars) and which are—

(1) Received, and

(2) Disposed of.

(72 Stat. 1423; 26 U.S.C. 5741)

§ 270.184 Record in support of removals subject to tax.

Every manufacturer of tobacco products shall keep a supporting record of tobacco products removed from his factory subject to tax, and shall make the entries therein at the time of removal. Such supporting record shall show, with respect to each removal, the date of removal, the name and address of the person to whom shipped or delivered, the kind and quantity of cigars, cigarettes, or manufactured tobacco, and, in the case of large cigars, the class: *Provided*, That where the tobacco products are delivered within the factory directly to the consumer the name and address of the person to whom delivered

need not be shown. Where the manufacturer keeps, at the factory, copies of invoices or other commercial records containing the information required as to each removal, in such orderly manner that the information may be readily ascertained therefrom, such copies will be considered the supporting record required by this section.

(72 Stat. 1423; 26 U.S.C. 5741)

§ 270.185 Retention of records.

All records required to be kept under this part, including copies of authorizations, claims, inventories, notices, reports, returns, and schedules, shall be retained by the manufacturer for three years following the close of the calendar year in which filed or made, or in the case of an authorization, for three years following the close of the calendar year in which the operation under such authorization is concluded. Such records shall be kept in the factory or a place convenient thereto, and shall be made available for inspection by any internal revenue officer upon his request.

(72 Stat. 1423; 26 U.S.C. 5741)

INVENTORIES AND REPORTS

§ 270.201 Inventories.

Every manufacturer of tobacco products shall make true and accurate inventories on Form 3067, which inventories shall include all tobacco materials and tobacco products on hand required to be accounted for in the records kept under this part. The manufacturer shall make such an inventory at the time of commencing business, which shall be the effective date of the permit issued upon original qualification under this part; at the time of transferring ownership; at the time of changing the location of his factory to a different region; at the time of concluding business; and at such other time as any internal revenue officer may require. Each inventory shall be prepared in duplicate, and shall be subject to verification by an internal revenue officer. The original of each such inventory shall be submitted to the assistant regional commissioner, and the duplicate shall be retained by the manufacturer.

(72 Stat. 1422, 1423; 26 U.S.C. 5721, 5741)

§ 270.202 Reports.

Every manufacturer of tobacco products shall make a report on Form 3068, in duplicate, for each month and for any portion of a month during which he engages in such business. Such report shall be made regardless of whether any operations or transactions occurred during the month or portion of a month covered therein. The report for a month or portion of a month in which business is commenced or is concluded shall be conspicuously marked "Commencing Report" or "Concluding Report", respectively. The original of the report shall be submitted to the assistant regional commissioner not later than the 20th day of the month succeeding the month covered therein, and the duplicate shall be retained by the manufacturer. Each report shall show, for the period covered, the total quantity of cigars, cigarettes, and manufactured tobacco:

(a) Manufactured,

- (b) Received in bond,
- (c) Received by return to bond,
- (d) Removed subject to tax,
- (e) Removed in bond,
- (f) Otherwise disposed of without determination of tax,
- (g) Disclosed by inventory as a net overage or shortage, and
- (h) On hand, in bond, beginning of and end of month.

(72 Stat. 1422; 26 U.S.C. 5722)

PACKAGES

§ 270.211 Package.

All tobacco products shall, before removal subject to tax, be put up by the manufacturer in packages which shall be of such construction as will securely contain the products therein and maintain the mark and the notice thereon as required by this part. No package of tobacco products shall have contained therein, attached thereto, or stamped, marked, written, or printed thereon (a) any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery, (b) any indecent or immoral picture, print, or representation, or (c) any statement or indication that United States tax has been paid.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 270.212 Mark.

Every package of tobacco products packed in a domestic factory shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the name of the manufacturer removing such products subject to tax and the location (by city and State) of the factory from which such products are to be so removed, or the permit number of the factory from which such products are to be so removed: *Provided*, That the Director may on application authorize a manufacturer to mark packages of tobacco products manufactured in and removed subject to tax from any of his factories with only the name of the manufacturer if the factory of production is identified on the package by a statement (e.g., manufactured in Richmond, Va.), symbol, or other means (other than a permit number), approved by the Director.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 270.213 Notice for manufactured tobacco.

Every package of manufactured tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "manufactured tobacco", "tobacco", or "snuff" and the quantity, by weight, of such product contained therein.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 270.214 Notice for cigars.

Every package of cigars shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "cigars", the quantity of such product contained therein, and the classification of the product for tax purposes, i.e., for small

cigars, either "small" or "little", and for large cigars, the appropriate following class designation which corresponds with the rate of tax imposed by section 5701 (b) (2), I.R.C.:

(a) "A. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be not more than 2½ cents each";

(b) "B. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 2½ cents each and not more than 4 cents each";

(c) "C. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 4 cents each and not more than 6 cents each";

(d) "D. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 6 cents each and not more than 8 cents each";

(e) "E. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 8 cents each and not more than 15 cents each";

(f) "F. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 15 cents each and not more than 20 cents each"; or

(g) "G. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 20 cents each".

(72 Stat. 1422; 26 U.S.C. 5723)

§ 270.215 Notice for cigarettes.

Every package of cigarettes shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "cigarettes", the quantity of such product contained therein, and the classification for tax purposes, i.e., for small cigarettes, either "small" or "Class A", and for large cigarettes, either "large" or "Class B".

(72 Stat. 1422; 26 U.S.C. 5723)

EXEMPTION FROM TAXES ON TOBACCO PRODUCTS

§ 270.231 Consumption by employees.

A manufacturer of tobacco products may furnish such products, without determination and payment of tax, for personal consumption by employees in the factory, in such quantities as desired. Each employee may also be furnished, for off-factory personal consumption, not more than 5 large cigars or cigarettes, 20 small cigars or cigarettes, or 2 ounces of manufactured tobacco, by the manufacturer, without determination and payment of tax, on each day the employee is at work. For the purpose of this section, the term "employee" shall include all persons who work for and receive compensation from the manufacturer, or a parent, subsidiary, or auxiliary company or corporation of the manufacturer, in the city, town, or village where the tobacco products so furnished to employees are produced. Such products furnished for off-factory consumption shall be taken from the factory by the employee on the day furnished.

Employees shall not sell, offer for sale, or give away products so furnished to them.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 270.232 Experimental purposes.

A manufacturer of tobacco products may use such products, without determination and payment of tax, for experimental (including testing) purposes in his factory, in such quantities as desired. When authorized by the assistant regional commissioner a manufacturer may also remove tobacco products, in bond, for experimental (including testing) purposes outside his factory. Removal of tobacco products under this section will be authorized only for bona fide experimental purposes, such as for use by producers of machines designed to package such products for testing and experimenting in the operation of these machines, or for use in laboratories, hospitals, medical centers, institutes, colleges, and universities, for scientific, technical, or medical research. Tobacco products may not be removed, under this section, for such purposes as advertising, salesmen's or customers' samples, or for consumer testing. An application to the assistant regional commissioner for authorization to remove tobacco products in bond for experimental purposes shall be by letter, in duplicate, and shall set forth the name and address of the consignee, the kind and quantity of cigars, cigarettes, or manufactured tobacco to be removed, and the intended use of the products. The manufacturer shall retain, as part of his records, each authorization of the assistant regional commissioner for such removal of tobacco products.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 270.233 Transfer in bond.

A manufacturer of tobacco products may transfer cigars, cigarettes, or manufactured tobacco, in bond, to the factory of any manufacturer of tobacco products. The transfer of tobacco products in bond to the premises of an export warehouse proprietor shall be in accordance with the provisions of Part 290 of this chapter.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 270.234 Removal for use of the United States.

The removal of tobacco products, in bond, for use of the United States, shall be in accordance with the provisions of Part 295 of this chapter.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 270.235 Removal for export purposes.

The removal of tobacco products, in bond, for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States, shall be in accordance with the provisions of Part 290 of this chapter.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 270.236 Release from customs custody.

The release of tobacco products from customs custody, in bond, for transfer to

the premises of a tobacco products factory, shall be in accordance with the provisions of Part 275 of this chapter.

(72 Stat. 1418; 26 U.S.C. 5704)

OTHER PROVISIONS RELATING TO TOBACCO PRODUCTS

§ 270.251 Emergency storage.

In cases of emergency, the assistant regional commissioner may authorize, for a stated period, the temporary storage of tobacco products at a place outside the factory without the application for amended permit required under § 270.114, where such action will not hinder the effective administration of this part, is not contrary to law, and will not jeopardize the revenue. Application for authorization to so store tobacco products shall be submitted to the assistant regional commissioner by letter, in duplicate. All tobacco products so stored outside the factory shall be accounted for in the records and reports required under §§ 270.183 and 270.202 the same as products within the factory.

(72 Stat. 1422, 1423; 26 U.S.C. 5722, 5741)

§ 270.252 Reduction to materials.

A manufacturer may reduce tobacco products to materials without internal revenue supervision. If the products have been entered in the factory record as manufactured or received, an entry shall be made in such record of the kind and quantity of cigars, cigarettes, or manufactured tobacco reduced to material, and of the quantity of tobacco resulting from the reduction. Where the manufacturer intends to file claim for allowance or refund of tax on such products he shall comply with the provisions of §§ 270.311 and 270.313.

(72 Stat. 1423; 26 U.S.C. 5741)

§ 270.253 Destruction.

When a manufacturer of tobacco products desires to destroy such products which have been entered in the factory record as manufactured or received, without salvaging the tobacco materials, he shall notify the assistant regional commissioner by letter, in duplicate, of the kind and quantity of cigars, cigarettes, or manufactured tobacco to be destroyed, the intended method of destruction, and the date on which he desires to destroy such products. The assistant regional commissioner may assign an internal revenue officer to supervise destruction of the products, or he may authorize the manufacturer to destroy such products without supervision by so stating on a copy of the manufacturer's notice returned to the manufacturer. When so authorized by the assistant regional commissioner, the manufacturer shall destroy the tobacco products by burning completely or by rendering them unfit for consumption. Upon completion of the destruction, the manufacturer shall make an entry of such destruction in his factory record, and where destruction without supervision is authorized, shall record the date and method of destruction on the notice returned to him by the assistant regional commissioner, which notice the manufacturer shall retain. Where the manu-

facturer intends to file claim for allowance or refund of tax on such products he shall comply with the provisions of §§ 270.311 and 270.313.

(72 Stat. 1423; 26 U.S.C. 5741)

§ 270.254 Receipt into factory.

A manufacturer of tobacco products may receive in bond into his factory any tobacco products which he is authorized under his permit to produce in that factory, and may also receive any tobacco products on which the tax has been determined (including products on which the tax has been paid). Tobacco products on which the tax has been determined which are so received shall be segregated and identified as products on which the tax has been determined. Where the manufacturer intends to file claim for allowance or refund of tax on such products he shall comply with the provisions of §§ 270.311 and 270.313.

TOBACCO MATERIALS

§ 270.261 Storage.

Tobacco materials may be stored outside the premises of a tobacco products factory, in the same region in which the factory is situated, if an extension of coverage of the bond for such purpose has been approved by the assistant regional commissioner. In cases of emergency, the assistant regional commissioner may authorize, for a stated period, the temporary storage of tobacco materials at a place outside the factory without such extension of coverage, where such action will not hinder the effective administration of this part, is not contrary to law, and will not jeopardize the revenue. Application to so store tobacco materials shall be submitted to the assistant regional commissioner by letter, in duplicate, and where applicable, such application shall be accompanied by an extension of coverage of bond. All tobacco materials so stored outside the factory shall be accounted for in the records required under § 270.182 the same as materials within the factory.

(72 Stat. 1421, 1423; 26 U.S.C. 5711, 5741)

§ 270.262 Shipment or delivery.

A manufacturer of tobacco products may ship or deliver tobacco materials, in bond, to (a) a qualified dealer in tobacco materials; (b) a qualified manufacturer of tobacco products; (c) a State institution; or (d) any person for experimental or display purposes when authorized by the assistant regional commissioner. A manufacturer of tobacco products may ship stems and waste, in bond, to any person for use by him as fertilizer or insecticide or in the production of fertilizer, insecticide, or nicotine. Shipment or delivery of tobacco materials to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, shall be in accordance with the provisions of Part 290 of this chapter. An application to the assistant regional commissioner for authorization to ship or deliver tobacco materials for experimental or display purposes shall be by letter, in duplicate, and shall set forth the name and address of the consignee, the quantity of materials to be shipped or delivered, and the intended

use of the materials or the place where they will be displayed. The manufacturer shall retain each authorization of the assistant regional commissioner for shipment or delivery of tobacco materials for experimental or display purposes.

(72 Stat. 1418; 26 U.S.C. 5704)

§ 270.263 Fumigation.

Tobacco materials held by, released to, or in transit to, a manufacturer of tobacco products may be taken, in bond, to a person who is not qualified as a dealer in tobacco materials or manufacturer of tobacco products, solely for purposes of fumigation by such person and returned or delivered to the manufacturer. Such tobacco materials shall be covered by the bond of the manufacturer and shall not be regarded as having been shipped or delivered by the manufacturer but shall be accounted for in the records required under § 270.182 the same as materials within the factory.

(72 Stat. 1421, 1423; 26 U.S.C. 5711, 5741)

§ 270.264 Destruction.

When a manufacturer of tobacco products desires to destroy tobacco materials other than stems and waste, he shall notify the assistant regional commissioner by letter, in duplicate, of the quantity of tobacco materials to be destroyed, the intended method of destruction, and the date on which he desires to destroy such materials. The assistant regional commissioner may assign an internal revenue officer to supervise the destruction of the materials, or he may authorize the manufacturer to destroy such materials without supervision by so stating on a copy of the manufacturer's notice returned to the manufacturer. When so authorized by the assistant regional commissioner the manufacturer shall destroy the tobacco materials by burning completely or by rendering them unfit for consumption. Upon completion of the destruction the manufacturer shall make an entry of such destruction in his factory record, and where destruction without supervision is authorized shall record the date and method of destruction on the notice returned to him by the assistant regional commissioner, which notice the manufacturer shall retain. A manufacturer of tobacco products who desires to destroy stems and waste may do so in the same manner without notification to the assistant regional commissioner.

(72 Stat. 1423; 26 U.S.C. 5741)

§ 270.265 Loss by theft or casualty.

Every loss of tobacco materials by theft, or destruction by fire, casualty, or act of God, while in the possession or ownership of a manufacturer of tobacco products, shall be reported to the assistant regional commissioner and the facts of such loss shall be established to his satisfaction.

(72 Stat. 1422; 26 U.S.C. 5722)

§ 270.266 Release from customs custody.

The release of tobacco materials from customs custody, in bond, for transfer to the premises of a tobacco products fac-

tory, shall be in accordance with the provisions of Part 275 of this chapter.

(72 Stat. 1418; 26 U.S.C. 5704)

Subpart I—Claims by Manufacturers

GENERAL

§ 270.281 Abatement of assessment.

A claim for abatement of the unpaid portion of the assessment of any tax on tobacco products, or any liability in respect thereof, may be allowed to the extent that such assessment is excessive in amount, is assessed after expiration of the applicable period of limitation, or is erroneously or illegally assessed. Any claim under this section shall be prepared on Form 843, in duplicate, and shall set forth the particulars under which the claim is filed. The original of the claim, accompanied by such evidence as is necessary to establish to the satisfaction of the assistant regional commissioner that the claim is valid, shall be filed with the assistant regional commissioner for the region in which the tax or liability was assessed, and the duplicate of the claim shall be retained by the manufacturer.

(68A Stat. 792; 26 U.S.C. 6404)

§ 270.282 Allowance of tax.

Relief from the payment of tax on tobacco products may be extended to a manufacturer by allowance of the tax, where the tobacco products, after removal from the factory upon determination of tax and prior to the payment of such tax, are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such products, or are withdrawn by him from the market. Any claim for allowance under this section shall be filed on Form 2635, in triplicate, with the assistant regional commissioner for the region in which the products were removed, and shall show the date the tobacco products were removed from the factory. A claim relating to products lost or destroyed shall be supported as prescribed in § 270.301. In the case of a claim relating to tobacco products withdrawn from the market, the schedule, as provided in § 270.311, shall be filed with the assistant regional commissioner for the region in which the products are assembled. The manufacturer may not anticipate allowance of his claim by making the adjusting entry in a tax return pending consideration and action on the claim. Tobacco products to which such a claim relates must be shown to have been removed on determination of tax on the return covering the period during which such products were so removed. Upon action on the claim by the assistant regional commissioner he will return a copy of the Form 2635 to the manufacturer as notice of such action, which copy, with the copy of any verified supporting schedules, shall be retained by the manufacturer. When such notification of allowance of the claim or any part thereof is received prior to the time the return covering the tax on the tobacco products to which the claim relates is to be filed, the manufacturer may make

an adjusting entry and explanatory statement in that tax return. Where the notice of allowance is received subsequent to the filing of the return and taxpayer of the tobacco products to which the claim relates, the manufacturer may make an adjusting entry and explanatory statement on the next subsequent tax return(s) to the extent necessary to take credit in the amount of the allowance.

(72 Stat. 1419; 26 U.S.C. 5705)

§ 270.283 Refund of tax.

The taxes paid on tobacco products may be refunded (without interest) to a manufacturer on proof satisfactory to the assistant regional commissioner that the claimant manufacturer has paid the tax on tobacco products lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of such manufacturer, or withdrawn by him from the market. Any claim for refund under this section shall be prepared on Form 843, in duplicate, and shall include a statement that the tax imposed on tobacco products by Chapter 52, I.R.C., has been paid in respect to the tobacco products covered by the claim, and that the products were lost, destroyed, or withdrawn from the market, within six months preceding the date the claim is filed. A claim for refund relating to products lost or destroyed shall be supported as prescribed in § 270.301, and a claim relating to products withdrawn from the market shall be accompanied by a schedule prepared and verified as prescribed in §§ 270.311 and 270.313. The original of the claim shall be filed with the assistant regional commissioner for the region in which the tax was paid, or where the tax was paid in more than one region, with the assistant regional commissioner for any one of the regions in which tax was paid. The duplicate of the claim, with the copy of any verified supporting schedules, shall be retained by the manufacturer.

(72 Stat. 1419; 26 U.S.C. 5705)

§ 270.284 Remission of tax liability.

Remission of the tax liability on tobacco products may be extended to the manufacturer liable for the tax where tobacco products in bond are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of such manufacturer. Where tobacco products are so lost or destroyed the manufacturer shall report promptly such fact, and the circumstances, to the assistant regional commissioner for the region in which the factory is located, and shall prepare a claim on Form 2635, in triplicate, setting forth the nature, date, place, and extent of the loss or destruction. All copies of the claim, accompanied by such evidence as is necessary to establish to the satisfaction of the assistant regional commissioner that the claim is valid, shall be filed with the assistant regional commissioner for the region in which the factory is located. Upon action on the claim by the assistant regional commissioner he will return a copy of the Form 2635 to the manufacturer as notice

of such action, which copy shall be retained by the manufacturer.

(72 Stat. 1419; 26 U.S.C. 5705)

§ 270.285 Claim for redemption of stamps.

Tobacco products tax stamps which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the manufacturer of such products has no use, may be redeemed by such manufacturer. Any claim for redemption of stamps under this section shall be prepared on Form 843, in duplicate, and the original shall be filed with the assistant regional commissioner, for the region in which the stamps were purchased, within three years after the stamps were purchased from the Government. Stamps may be presented with the claim or they may be destroyed under internal revenue supervision, or satisfactory evidence shall be submitted with the claim showing the reason why they cannot be so presented or destroyed. Where the stamps are to be destroyed, the manufacturer shall prepare a schedule on Form 178, in duplicate, for the stamps covered by the claim. When the schedule has been prepared, the manufacturer shall request the assistant regional commissioner to assign an internal revenue officer to verify the schedule and supervise the destruction of the stamps. The original of the verified schedule shall be returned to the manufacturer and be attached to his claim, Form 843, when filed. If required, the manufacturer shall satisfactorily trace the history of the stamps from their issuance to the filing of his claim.

(68A Stat. 830, as amended by 72 Stat. 1313; 26 U.S.C. 6805)

TOBACCO PRODUCTS LOST OR DESTROYED

§ 270.301 Action by claimant.

Where tobacco products are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, and the manufacturer desires to file a claim for the tax on such products under the provisions of § 270.282 or § 270.283, he shall indicate on the claim the nature, date, place, and extent of such loss or destruction. The claim shall be accompanied by such evidence as is necessary to establish to the satisfaction of the assistant regional commissioner that the claim is valid.

(72 Stat. 1419; 26 U.S.C. 5705)

TOBACCO PRODUCTS WITHDRAWN FROM THE MARKET

§ 270.311 Action by claimant.

Where tobacco products are withdrawn from the market and the manufacturer desires to file claim under the provisions of § 270.282 or § 270.283, he shall assemble the products in or adjacent to a factory if they are to be returned to bond or reduced to materials and the resultant materials returned to bond, or at any suitable place if they are to be destroyed. The manufacturer shall group the products according to the rate of tax applicable thereto, and shall prepare a schedule of the products, on Form 3069, in triplicate. All copies of the schedule shall be forwarded to the as-

sistant regional commissioner for the region in which the products are assembled.

(72 Stat. 1419; 26 U.S.C. 5705)

§ 270.312 Action by assistant regional commissioner.

Upon receipt of a schedule of tobacco products withdrawn from the market, the assistant regional commissioner may assign an internal revenue officer to verify the schedule and supervise disposition of the tobacco products (and destruction of the stamps, if any), or he may authorize the manufacturer to dispose of the products (and destroy the stamps, if any) without supervision by so stating on the original and one copy of the schedule returned to the manufacturer.

§ 270.313 Disposition of tobacco products and schedule.

When so authorized, as evidenced by the assistant regional commissioner's statement on the schedule, the manufacturer shall dispose of the tobacco products (and destroy the stamps, if any) as specified in the schedule. After the manufacturer has disposed of the products (and destroyed the stamps, if any), he shall execute a certificate on both copies of the schedule returned to him by the assistant regional commissioner, to show the disposition and the date of disposition of the products (and stamps, if any). In connection with a claim for allowance the manufacturer then shall return the original of the schedule to the assistant regional commissioner who authorized such disposition, who will cause such schedule to be associated with the claim, Form 2635. In connection with a claim for refund the manufacturer shall attach the original of the schedule to his claim, Form 843, filed under § 270.283. When an internal revenue officer is assigned to verify the schedule and supervise disposition of the tobacco products, such officer shall, upon completion of his assignment, execute a certificate on all copies of the schedule to show the disposition and the date of disposition of the products. In connection with a claim for allowance, the officer shall return one copy of the schedule to the manufacturer for his records, and in connection with a claim for refund, the officer shall return the original and one copy of the schedule to the manufacturer, the original of which the manufacturer shall attach to his claim, Form 843, filed under § 270.283.

(72 Stat. 1419; 26 U.S.C. 5705)

Subpart J—Suspension and Discontinuance of Operations by Manufacturers

§ 270.331 Discontinuance of operations.

Every manufacturer of tobacco products who desires to discontinue operations under this part shall dispose of all tobacco materials and tobacco products on hand, in accordance with this part, and make a concluding inventory and concluding report in accordance with the provisions of § 270.201 and § 270.202, respectively. The manufacturer shall

surrender his permit, with such inventory and report, to the assistant regional commissioner as notice of such discontinuance. The assistant regional commissioner may then terminate the liability of the surety on the bond of the manufacturer.

(72 Stat. 1422; 26 U.S.C. 5721, 5722)

§ 270.332 Suspension and revocation of permit.

Where the assistant regional commissioner has reason to believe that a manufacturer of tobacco products has not in good faith complied with the provisions of Chapter 52, I.R.C., and regulations thereunder, or with any other provision of the I.R.C. with intent to defraud, or has violated any condition of his permit, or has failed to disclose any material information required or made any material false statement in the application for the permit, or has failed to maintain his premises in such manner as to protect the revenue, the assistant regional commissioner shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked. Such citation shall be issued and opportunity for hearing afforded in accordance with Part 200 of this chapter, which part is applicable to such proceedings. If the hearing examiner, or on appeal, the Director, decides the permit should be suspended or revoked, the assistant regional commissioner shall by order give effect to such decision.

(72 Stat. 1421; 26 U.S.C. 5713)

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